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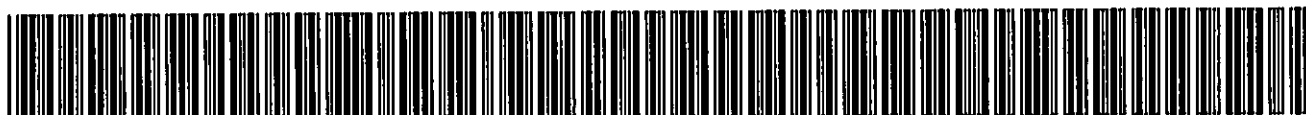
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1990, No. 4

An Act to provide for the taking of polls in no-licence districts

[9 March 1990]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Local Restoration Polls Act 1990.

(2) This Act shall come into force on the 1st day of April 1990.

2. Interpretation—In this Act, unless the context otherwise requires,—

"Elector" means a person who is registered, or qualified to be registered, as an elector of an electoral district (as defined by section 2 of the Electoral Act 1956) within

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which is situated the whole or any part of a no-licence district and who is resident in the no-licence district:
“General election” means an election which takes place after the dissolution or expiration of Parliament.

3. “No-licence district” defined—(1) In this Act, the term “no-licence district” means—

- (a) The Roskill, Wellington East, Grey Lynn, and Eden no-licence districts as constituted immediately before the 1st day of April 1990; and
- (b) The district described in section 253 of the Sale of Liquor Act 1989 (in this section referred to as the Tawa special district).

(2) Notwithstanding anything in subsection (1) of this section, where the boundary of the Roskill, Wellington East, Grey Lynn, or Eden no-licence district, or the Tawa special district passes through any parcel of land that is wholly or partially outside the district and that has a residential address within the district, the parcel of land shall be deemed to be included within the district.

Cf. 1910, No. 46, s. 2; 1989, No. 63, s. 230 (1)

4. Local restoration poll to be taken on day of general election—(1) On the day appointed for the taking of the poll (in this Act called the electoral poll) of the electors of each electoral district for the return of a member of Parliament for the district, at every general election after the commencement of this Act, and simultaneously therewith, a poll (in this Act called the local restoration poll) of the electors of each no-licence district shall be taken upon the question whether licences shall be restored in that district (in this Act called the restoration question).

(2) The restoration question shall be submitted in the voting paper in form 1 in the Schedule to this Act.

(3) The local restoration poll shall be taken in every no-licence district, even where in the electoral district or districts in which a no-licence district is situated no electoral poll is required.

(4) If at any time Parliament is dissolved before it has been two years in existence, then at the taking of the electoral poll for the new Parliament no local restoration poll shall be taken, but the result of the local restoration poll taken at the then last previous general election shall continue in force until such local restoration poll is again taken simultaneously with the general election next after the dissolution of such new Parliament.

(5) The provisions of the Electoral Act 1956 and of any regulations made under that Act shall, as far as they are applicable and with the necessary modifications, apply as if the local restoration poll were the electoral poll, and the local restoration poll shall be taken in the manner prescribed by that Act for the taking of the electoral poll.

(6) The electoral rolls for the time being in force under the Electoral Act 1956 shall be deemed to be the rolls of electors for the purposes of the local restoration poll.

Cf. 1908, No. 104, s. 12; 1910, No. 46, s. 8

5. Returning Officer for no-licence district—(1) The Chief Electoral Officer shall appoint a Returning Officer for each no-licence district for the taking of the local restoration poll.

(2) The Returning Officer for every electoral district in which any part of the no-licence district is situated shall supply to the Returning Officer for the no-licence district a certificate of the total number of votes recorded in the electoral district at the poll, and of the number of votes so recorded in favour of each proposal submitted at the poll.

(3) The Returning Officer for the no-licence district shall give public notice and declare the result of the poll, and shall include therein the numbers certified as aforesaid by the Returning Officers for the electoral districts in which any parts of the no-licence districts are situated.

(4) Except as provided in subsection (3) of this section and in section 13 of this Act, the Returning Officer for the no-licence district shall have no functions or powers in relation to the poll.

(5) Nothing in subsection (4) of this section shall be deemed to affect the functions or powers of the Returning Officer for the no-licence district in respect of any matters arising after the declaration of the result of the poll.

Cf. 1946, No. 40, s. 51 (3)

6. Names of electors—The names of the persons who, as electors of any electoral district in which is situated the whole or any part of the no-licence district and as residents in the no-licence district, are entitled to vote at the local restoration poll shall be indicated by appropriate words, abbreviations, or marks on the electoral roll for that electoral district.

Cf. 1946, No. 40, s. 51 (4)

7. Provisions for taking local restoration poll—The local restoration poll shall be taken as follows:

- (a) The Chief Electoral Officer shall provide voting papers and all things necessary for taking the local restoration poll:
- (b) The Returning Officer for every electoral district in which any part of the no-licence district is situated shall, upon the day referred to in section 4 (1) of this Act, proceed to take the local restoration poll in the manner provided for taking the electoral poll:
- (c) The Deputy Returning Officers, poll clerks, interpreters, and ushers appointed for the taking of the electoral poll shall, by virtue of being so appointed, be, in addition, Deputy Returning Officers, poll clerks, interpreters, and ushers for the taking of the local restoration poll:
- (d) The polling booths in each no-licence district for the taking of the local restoration poll shall be the same as those used at the taking of the electoral poll:
- (e) The voting paper for the local restoration poll shall be issued in the same manner as the ballot paper for the electoral poll, and the voting paper and the ballot paper shall be given simultaneously to the elector:
- (f) The voter shall vote by marking the voting paper with a tick within the circle immediately after the proposal for which the voter wishes to vote.

Cf. 1908, No. 104, s. 14 (1) (b), (g), (h), (i), (k)

8. Appropriation—All expenses incidental to the taking of a local restoration poll shall be paid out of money appropriated by Parliament for the purpose.

Cf. 1908, No. 104, s. 14 (1) (n)

9. Nomination of scrutineers by electors in favour of no-licence—Any 10 or more electors who are in favour of the proposal that no licences be granted in the district may, by nomination paper under their hands, nominate any 2 specified persons to appoint one scrutineer to act at each polling booth in the district in the interest of all electors who are in favour of that proposal.

Cf. 1908, No. 104, s. 15

10. Nomination of scrutineers by electors not in favour of no-licence—Any 10 or more electors who are not in favour of the proposal that no licences be granted in the district may, in like manner, nominate any 2 specified persons

to appoint one scrutineer to act at each polling booth in the interest of all electors who are not in favour of that proposal.

Cf. 1908, No. 104, s. 16

11. Form of nomination—The nomination paper shall be in form 2 in the Schedule to this Act.

Cf. 1908, No. 104, s. 17

12. Nomination paper to be lodged with Returning Officer—The nomination paper shall be lodged with the Returning Officer for the no-licence district not later than the twelfth day before polling day, and shall be open to public inspection.

Cf. 1908, No. 104, s. 18

13. Returning Officer to select fit persons to appoint scrutineers—On a day to be publicly notified by the Returning Officer for the no-licence district, being not earlier than the tenth nor later than the fifth day before polling day, the Returning Officer shall publicly consider all the nomination papers duly lodged, and, after hearing all objections, select 2 fit persons to appoint one scrutineer, and 2 fit persons to appoint the other scrutineer, to act at each polling booth in the respective interests as aforesaid; and the persons so selected may appoint accordingly.

Cf. 1908, No. 104, s. 19

14. Selection to be in writing—The selection shall be by writing under the hand of the Returning Officer for the no-licence district, and shall be in form 3 in the Schedule to this Act.

Cf. 1908, No. 104, s. 20

15. Appointments to be in writing—The appointment shall in each case be by writing under the hands of the persons selected, and shall be in form 4 in the Schedule to this Act.

Cf. 1908, No. 104, s. 21

16. Powers and rights of scrutineers—Every scrutineer so appointed shall, for the purposes of the local restoration poll, have all the powers and rights of a scrutineer under the Electoral Act 1956, and shall make the declaration required to be made by scrutineers at elections under that Act.

Cf. 1908, No. 104, s. 22

17. Remuneration of scrutineers not expenses of poll—The remuneration (if any) of the scrutineers shall not be expenses incidental to the taking of the local restoration poll.

Cf. 1908, No. 104, s. 23

18. Declaration of result—The form for giving public notice in accordance with section 116 (1) of the Electoral Act 1956 (as applied by this Act) shall be form 5 in the Schedule to this Act.

19. When proposal deemed to be carried—(1) When on the taking of a local restoration poll in any no-licence district the number of votes recorded in favour of the proposal that licences be restored in the district exceeds the number of votes recorded against the proposal, the question shall be deemed to be carried, and the determination of the electors of that district shall be deemed to be in favour of the restoration of licences.

(2) Subject to sections 20 and 26 of this Act, every such determination shall come into force on the date on which the Returning Officer for the no-licence district first gives public notice of the determination in accordance with section 116 (1) of the Electoral Act 1956 (as applied by this Act).

(3) On the coming into force of every such determination, this Act shall be deemed to be amended by the deletion of the name of the no-licence district from the definition of the term "no-licence district" in section 3 of this Act.

Cf. 1910, No. 46, s. 9

20. Application to District Court Judge for recount—If the result of any local restoration poll is disputed on the ground that the public declaration by the Returning Officer for the no-licence district in accordance with section 116 (1) of the Electoral Act 1956 (as applied by this Act) was incorrect, the following provisions shall apply:

- (a) Any 6 electors may, within 3 working days after the public declaration, apply to a District Court Judge for a recount of the votes:
- (b) Every such application shall be accompanied by a deposit of \$200 (which deposit is inclusive of goods and services tax):
- (c) The District Court Judge shall cause a recount of the votes to be commenced within 3 working days of receiving the application, and shall give notice in writing to the applicants and to any scrutineers appointed under

section 13 of this Act of the time and place at which the recount will be made:

- (d) Section 117 (4)–(9) and section 118 of the Electoral Act 1956, so far as they are applicable and with the necessary modifications, shall apply to the recount.

Cf. 1908, No. 104, s. 29

21. Publicity for local restoration poll—(1) No person shall publish or cause or permit to be published in any newspaper, periodical, poster, or handbill, or broadcast or cause or permit to be broadcast over any radio or television station, any advertisement used or appearing to be used to promote one of the proposals in the local restoration poll unless the advertisement contains a statement setting out the true name of the person for whom or at whose direction it is published and the address of his or her place of residence or business.

(2) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$3,000 who wilfully contravenes subsection (1) of this section.

(3) Nothing in this section shall restrict the publication of any news or comments relating to the local restoration poll in a newspaper or other periodical or in a radio or television broadcast made by a broadcaster within the meaning of section 2 of the Broadcasting Act 1989.

22. Election expenses—For the purposes of section 139 of the Electoral Act 1956, “election expenses”, in relation to a candidate at an election in any district, includes expenses that relate to the promotion by the candidate of any of the proposals on the voting paper for the local restoration poll; but nothing in this section prevents the apportionment under section 139A of that Act of expenses to which this section applies.

Petitions

23. Sections of Electoral Act 1956 applied—(1) The sections of the Electoral Act 1956 described in subsection (2) of this section, as far as they are applicable and with the necessary modifications, shall apply to a petition for an inquiry under section 24 of this Act.

(2) The sections of the Electoral Act 1956 referred to in subsection (1) of this section are sections 158 to 160, 161, 162 (1), (2), (4), (5), 166, 167, 168, 173 to 181, 182 (1) (a), (b), and 183.

24. Petition for inquiry—(1) Where any 50 electors in a no-licence district are dissatisfied with the result of the local restoration poll in their district, they may, within 20 working days after the Returning Officer for the no-licence district has made a public declaration in accordance with section 116 (1) of the Electoral Act 1956 (as applied by this Act), file a petition in the High Court for an inquiry as to the conduct of the poll or of any person connected with it.

(2) If the petition complains of the conduct of any Returning Officer or Registrar of Electors, the person complained of shall be a respondent to the petition.

(3) The petition shall allege the specific grounds on which the complaint is founded, and no other grounds than those stated shall be investigated, except by leave of the Court and upon reasonable notice being given, which leave may be given upon such terms and conditions as the Court considers just:

Provided that evidence may be given to prove that any proposal other than that declared to be carried was carried and not rejected, or was rejected and not carried.

(4) Such petition shall be in form 6 in the Schedule to this Act, or to the like effect, and shall be filed in the registry of the High Court nearest to the place where the poll was held. The Registrar of the Court shall forthwith send a copy of the petition to the Returning Officer for the no-licence district.

(5) The petition shall be served as nearly as may be in the manner in which a statement of claim is served, or in such other manner as may be prescribed by rules of Court.

Cf. 1908, No. 104, s. 30; 1956, No. 107, ss. 156, 157

25. Who may be respondents—Any 6 electors in the no-licence district may, at any time not later than 3 working days before the commencement of the inquiry, file in the Court in which the petition is filed a notice in writing of their intention to oppose the petition, and thereupon the electors giving such notice shall be deemed to be respondents to the petition.

Cf. 1908, No. 104, s. 31

26. Determination of Court as to result of local restoration poll—At the conclusion of the trial of a petition for an inquiry the Court shall determine whether, by reason of some irregularity that in its opinion materially affected the result of the poll, the poll is void, or whether any and what proposal was duly carried.

Cf. 1908, No. 104, s. 33 (2)

27. Persons committing irregularities to be named in report—(1) On such inquiry the Court shall report in writing to the Minister of Justice the names of all persons found to have been guilty of any irregularity at or in connection with the poll, and shall state in such report whether or not in the opinion of the Court any such irregularity tended to defeat the fairness of the poll, and whether or not such irregularity tended materially to affect the result thereof.

(2) Every person shall be guilty of an irregularity within the meaning of subsection (1) of this section who commits any offence described in section 29 of this Act, whether or not that person is prosecuted for or convicted of any such offence.

Cf. 1908, No. 104, s. 34

28. Fresh poll—(1) Where any local restoration poll is declared void under section 26 of this Act, notice thereof shall be given by the Court to the Returning Officer, and a fresh poll shall, on a day to be fixed by the Returning Officer, being not later than 30 working days after the date of such notice, be taken in the manner prescribed by this Act in the case of a local restoration poll.

(2) At any such fresh local restoration poll the same roll of electors shall be used as was used at the voided poll.

Cf. 1908, No. 104, s. 37

29. Offences—Every person commits an offence and shall be liable on summary conviction to a fine not exceeding \$2,000 who at a local restoration poll—

- (a) In any way interferes with any elector, either in the polling booth or while on his or her way thereto, with the intention of influencing the elector or advising him or her as to his or her vote; or
- (b) Prints or distributes or delivers to any person on the day of the poll, or at any time during the 3 days immediately preceding the poll, anything being or purporting to be in imitation of any voting paper to be used at the poll, together with any direction or indication as to how any person should vote, or in any way containing any such direction or indication; or
- (c) During the hours in which the poll is being taken, makes any public demonstration having reference to the poll by means of living figures, effigies, paintings, placards, or other like means; or
- (d) Obtains possession of or has in his or her possession any voting paper other than the one given to him or her

- by the Returning Officer for the purpose of recording his or her vote, or retains any voting paper in his or her possession after leaving the polling booth; or
- (e) Refuses or neglects to comply with, or commits any breach of any of the provisions of this Act, or misleads or gives any misdirection to an elector in any matter relating to the elector's vote; or
 - (f) Does or omits to do any act that if done or omitted to be done at an electoral poll would be an offence under the Electoral Act 1956.

Cf. 1908, No. 104, ss. 14 (2), 35

30. Regulations—The Governor-General may from time to time, by Order in Council, make all such regulations as may be necessary or expedient for the purposes of giving full effect to the provisions of this Act and for the due administration thereof.

31. Amendments to Sale of Liquor Act 1989—(1) The Sale of Liquor Act 1989 is hereby amended by omitting the expression "the Licensing Amendment Act 1910" wherever it appears in sections 249 to 253, and substituting in each case the words "the Local Restoration Polls Act 1990".

(2) The Sale of Liquor Act 1989 is hereby further amended by repealing so much of the First Schedule as relates to the Licensing Amendment Act 1910.

32. Repeal—The Licensing Amendment Act 1910 is hereby repealed.

SCHEDULE

Form 1

Section 4 (2)

VOTING PAPER

OFFICIAL MARK

.....
[Consecutive Number]

..... No-licence District

LOCAL RESTORATION POLL

Directions

(Read carefully before voting)

OFFICIAL MARK

1. Vote for only one proposal.
2. Vote by putting a tick in the circle immediately after the proposal you choose.
3. After voting,—
 - (a) Fold this voting paper so that its contents cannot be seen and place it in the ballot box; or
 - (b) If you are a special voter, place both this voting paper and the Parliamentary ballot paper in that portion of the envelope provided marked "Ballot and Voting Papers".
4. If you spoil this voting paper, return it to the officer who issued it and apply for another.
5. Except as provided for special voters, you must not take this voting paper out of the polling booth.

Vote for only one proposal.



Vote Here

I VOTE FOR LOCAL RESTORATION	<input type="radio"/>
I VOTE FOR LOCAL NO-LICENCE	<input type="radio"/>

NOTE*

This form shall have a counterfoil in form 9 in the First Schedule to the Electoral Act 1956.
 *Not to be printed as part of the form.

SCHEDULE—continued

Section 11

Form 2

NOMINATION OF SCRUTINEERS FOR PURPOSES OF LOCAL RESTORATION POLL

1. For the purposes of the local restoration poll to be taken in the
..... District on the day of 19...., we, the undersigned electors of the district, hereby nominate [*Full names, addresses, and occupations of the 2 persons nominated*] as fit persons to appoint one scrutineer to act at each polling booth in the interest of all electors who are in favour [*or, as the case may be, not in favour*] of the proposal that no licences be granted in the district.
2. In support of our nomination we hereby severally, each for himself or herself, solemnly and sincerely declare that we are, and we believe each of the persons nominated to be, honestly in favour [*or, as the case may be, not in favour*] of the proposal that no licences be granted in the district.

We severally make this solemn declaration conscientiously believing the same to be true, and by virtue of the Oaths and Declarations Act 1957.

Severally declared by each of the
[*Number*] declarants whose signatures
are subscribed hereto, this
..... day of
19...., before me—

.....
J.P. [*Solicitor,*
or as the case may be.]

Signature, Address, and Occupation

1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

NOTE—Not less than 10 electors must sign.

SCHEDULE—continued

Form 3

Section 14

RETURNING OFFICER'S SELECTION FOR THE PURPOSES OF THE LOCAL
RESTORATION POLL

Having considered the nominations duly lodged in this behalf, and having heard all objections thereto, I hereby select *[Full names, addresses, and occupations of the 2 persons selected, etc. (as above)]* as fit persons to appoint one scrutineer to act at each polling booth at the local restoration poll for the District on the day of 19...., in the interest of all electors who are in favour *[or, as the case may be, not in favour]* of the proposal that no licences be granted in the district.

Dated at this day of 19....

....., Returning Officer.

Form 4

Section 15

APPOINTMENT OF SCRUTINEERS FOR THE PURPOSES OF LOCAL RESTORATION
POLL

To the Returning Officer.

For the purposes of the local restoration poll for the District to be taken on the day of 19...., we, the undersigned, being duly authorised in this behalf, hereby appoint the persons named in the Schedule hereto to act as scrutineers at the polling booths named in the Schedule, in the interest of all electors who are in favour *[or, as the case may be, not in favour]* of the proposal that no licences be granted in the district.

SCHEDULE

Scrutineer	Polling Booth
<i>[Full name, address, and occupation of the scrutineer]</i>	<i>[Name of polling booth]</i>

Dated at this day of 19....

*[Signatures of the 2 persons
authorised to appoint.]*

SCHEDULE—*continued*

Section 18

Form 5

DECLARATION OF RESULT OF LOCAL RESTORATION POLL

..... No-licence District

In pursuance of the Local Restoration Polls Act 1990, I hereby give public notice that at the local restoration poll taken under that Act the total number of valid votes recorded was as follows:

For Local Restoration

For Local No-Licence

I hereby declare that, as the total number of valid votes recorded in favour of the proposal for local restoration exceeds [*or does not exceed*] the total number of valid votes recorded against the proposal, the determination of the electors of the district is in favour of [*or is against*] the restoration of licences.

Dated at this day of 19....

....., Returning Officer.

Section 24 (4)

Form 6

PETITION FOR INQUIRY AS TO RESULT OF LOCAL RESTORATION POLL

In the matter of a local restoration poll held in the [*State no-licence district*] on the day of 19....

The petition of the undersigned electors of the [*State no-licence district*] namely, A.B., of, C.D., of, etc.

1. Your petitioners state that the said local restoration poll was held on the day of 19...., and that the Returning Officer has declared the proposal to be carried that licences be granted [*or be not granted*] in the district.
2. And your petitioners say that [*State the facts and grounds on which the petitioners rely*].

Wherefore your petitioners pray that it may be determined that the said proposal was rejected and not carried [*or was carried and not rejected*] [*or that the poll was void*].

A.B.,
C.D.,
etc.

This Act is administered in the Department of Justice.

